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c Pr14 City of Ottawa Act, 1991 (No. 2)

Ontario

This statute received Royal Assent during the part of the First Session of the Thirty-Fifth Legislature which was held in 1991, before the *Revised Statutes of Ontario, 1990* came into force. The statute as reproduced here has been revised pursuant to the *Statutes Revision Act, 1989* to reflect the changes that resulted from the coming into force of the *Revised Statutes of Ontario, 1990*. The Statutes as originally enacted are set out in Volume 1 of the *Statutes of Ontario, 1991*.

Cette loi a reçu la sanction royale au cours de la partie de la première session de la trente-cinquième législature qui s'est tenue en 1991, avant que les *Lois refondues de l'Ontario de 1990* sont entrées en vigueur. La loi reproduite ici a été refondue conformément à la *Loi de 1989 sur la refonte des lois* de manière à refléter les modifications résultant de l'entrée en vigueur des *Lois refondues de l'Ontario de 1990*. Le volume 1 des *Lois de l'Ontario de 1991* reproduit les lois sous la forme dans laquelle elles ont été adoptées.

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CHAPTER Pr14

An Act respecting the City of Ottawa

Assented to June 27th, 1991

Preamble

The Corporation of the City of Ottawa, referred to in this Act as the Corporation, has applied for special legislation in respect of the matters set out in this Act.

It is appropriate to grant the application.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“employee” includes a person who,

- (a) performs any work for or supplies any services to an employer, or
- (b) receives any instructions or training in the activity, business, work, trade, occupation or profession of the employer;

“employer” includes any person who as the owner, proprietor, manager, superintendent or overseer of any activity, business, work, trade, occupation or profession, has control over or direction of, or is directly or indirectly responsible for the employment of a person therein;

“inspector” means a person appointed by the council of the Corporation under subsection 2 (2);

“non-smoking policy” means a written policy that prohibits smoking in the workplace in accordance with a by-law passed under this Act;

“smoking” includes carrying a lighted cigar, cigarette or pipe and “smoke” has a corresponding meaning;

“workplace” means any enclosed area of a building or structure in which an employee works and includes washrooms, corridors and other common areas utilized by an employee.

By-laws
respecting
smoking in
the
workplace

2.—(1) The council of the Corporation may pass by-laws for requiring every employer in the City of Ottawa, within the time specified in the by-law, to adopt and implement a non-smoking policy that prohibits smoking in respect of each workplace under the control, supervision or ownership of the employer.

(2) A by-law passed under subsection (1) ^{Idcm} may,

- (a) provide that the employer may voluntarily designate locations in the workplace as a smoking area if the designated area,
 - (i) is equipped with a ventilation system that is separate from the ventilation system for the remainder of the workplace, is under negative pressure and is vented directly to the outdoors,
 - (ii) is not used for any function other than a smoking area, and
 - (iii) is not located in an area in which smoking is prohibited by the Fire Marshal or under any other law;
- (b) exempt from the by-law any class of workplace;
- (c) require every employer to adopt and implement a non-smoking policy, to maintain that non-smoking policy in the workplace for which it was adopted and to give notice of the adoption of the non-smoking policy to each employee in the workplace within the time specified in the by-law;
- (d) require an employer to erect signs in the workplace indicating the prohibition and indicating any location designated as a smoking area;
- (e) require an owner of a multi-tenanted building to erect signs at or near the main entrance of the building indicating the prohibition and, if the owner designates a location as a smoking area, to erect signs at the location designated as a smoking area;
- (f) prescribe the size, location and details of the signs to be erected;
- (g) provide that any employer who permits smoking in a workplace, except in a location designated under clause (a) or exempted under clause (b), is guilty of an offence;
- (h) provide that any person who smokes in a workplace, except in a location

designated under clause (a) or exempted under clause (b), is guilty of an offence;

- (i) prescribe the method by which any notice is required to be given by the employer; and
- (j) appoint inspectors.

Classification of workplace

(3) For the purposes of clause (2) (b), the council of the Corporation may classify the workplace by size, number of persons employed, character of business, location or other criteria.

Inspection of workplace

3.—(1) For the enforcement of any by-law passed under this Act, an inspector, upon producing proper identification, may, at all reasonable hours, enter any workplace or any building or structure in which a workplace is situate and may make examinations, investigations and inquiries.

Dwellings

(2) No inspector may enter a workplace that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant.

Obstruction

(3) Any person who hinders or obstructs an inspector lawfully carrying out the enforcement of any by-law passed under this Act is guilty of an offence.

Warrant

4.—(1) An inspector may apply to a justice of the peace for a warrant if any person,

- (a) denies entry or access to the inspector, through or over a workplace or through or over any building or structure in which a workplace is situate;
- (b) instructs or directs an inspector to leave a workplace or any building or structure in which a workplace is situate;
- (c) obstructs an inspector from carrying out the enforcement of a by-law passed under this Act; or
- (d) refuses to comply with a request for the production of any thing, the production of which is requested for the purpose of an examination, investigation or inquiry related to the by-law passed under this Act.

Issuing of warrant

(2) If a justice of the peace is satisfied on evidence under oath,

- (a) that there is reasonable and probable ground for believing that it is necessary,
 - (i) to enter and have access to any workplace or any building or structure in which a workplace is situate, or

- (ii) to make examinations, investigations and inquiries for the purpose of this section or the enforcement of any by-law passed under this Act; and

(b) that an inspector,

- (i) has been denied entry to the workplace or to any building or structure in which a workplace is situate,
- (ii) has been instructed or directed to leave the workplace or any building or structure in which a workplace is situate,
- (iii) has been obstructed, or
- (iv) has been refused production of any thing related to an examination, investigation or inquiry related to the by-law passed under this Act,

the justice of the peace may issue a warrant authorizing an inspector to act as mentioned in clause (a) in respect of the workplace or building or structure specified in the warrant, by force if necessary, together with such police officers as may be called upon to assist the inspector.

(3) A warrant executed under this section shall be executed between the hours of 6 a.m. and 9 p.m. unless otherwise specified in the warrant. Execution

(4) A warrant issued under this section shall state the date upon which it expires, which shall be a date not later than fifteen days after the warrant is issued. Expiry

(5) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the employer or owner or occupier of the workplace or of the building or structure in which a workplace is situate. Application without notice

5. If a provision in this Act or a by-law made under this Act conflicts with the *Smoking in the Workplace Act* or any other Act or a regulation, the provision that is the most restrictive of smoking prevails. Conflicts

6. Nothing in this Act derogates from the right of an employer to prohibit smoking in a workplace or from the rights of an employee to a smokefree workplace. Rights protected

7. This Act comes into force on the day it receives Royal Assent. Commencement

8. The short title of this Act is the *City of Ottawa Act, 1991 (No. 2)*. Short title